



DECLARATION UNDER 37 CFR 1.1327

I, Hiroshi KASHIWAGI, hereby declare and say as follows:

1. I am one of the named inventors in the instant Application.
2. I graduated from Tokyo Institute of Technology in 1982 with a Master of Science degree. Since 1982, I have been employed by Konica Corporation, the Assignee of the above-identified Application. During my tenure at Konica, I have been engaged in research and development in the field of photographic materials.
3. It has been brought to my attention that this Application has been rejected based on U.S. Patent No. 2002/0102502 to Fukui (Fukui) and U.S. Patent No. 6,808,872 to Kudo (Kudo). In order to demonstrate the differences between the teachings in Fukui and the present Invention, tests have been performed and are presented herein. These tests have been performed by me or under my direct supervision and control.
4. The Sample No. 10 on Page 38, Table 3 of Fukui was chosen as the comparative sample because it has the compound 11-3, equal to (2-3) on Page 6 of Fukui, which is same as 1-1 of formula (1) of the present Application. It was prepared in accordance with Fukui.
5. The Sample No. 118 on Columns 67-68, Table 2 of Kudo was also as the comparative sample because it has the compound 1a-1 on Column 11 of Kudo, which is also same as 1-1 of formula (1) of the present Application. It was prepared in accordance with Kudo.
6. The evaluation of "Sb/Sa" of the above samples was performed in accordance with the Example 1 of the present Application, which is described on Page 94, last line to Page 95, Line 9. The results are shown in Table 4.
7. As apparently from the results of the Table 4 in the experimental report, none of the samples on these references meets the following requirement:
$$Sb/Sa \leq 0.2.$$

Such results are surprising and unexpected to one of skilled in the art.

6. It is declared by undersigned that all statements made herein of undersigned's own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements and the like so made are punishable by fine or imprisonment, or both, under section 18 U.S. Code 1001, and that such willful false statements may jeopardize the validity of the Application or any patent issuing thereon.

Hiroshi Kashiwagi
Hiroshi KASHIWAGI

Dated: This 18th day of February, 2005.



Table 4

Sample No.	Photographic Characteristic (Sb/Sa)	Remark
10	0.31	Comp.
118	0.39	Comp.